

# MENTAL HEALTH PROFESSIONAL PRACTICE ACT

## Part 1 - General Provisions

### 58-60-101. Title.

This chapter is known as the "Mental Health Professional Practice Act."

### 58-60-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Client" or "patient" means an individual who consults or is examined or interviewed by a mental health therapist acting in his professional capacity.
- (2) "Confidential communication" means information, including information obtained by the mental health therapist's examination of the client or patient, which is:
  - (a) (i) transmitted between the client or patient and a mental health therapist in the course of that relationship; or
  - (ii) transmitted among the client or patient, the mental health therapist, and individuals who are participating in the diagnosis or treatment under the direction of the mental health therapist, including members of the client's or patient's family; and
  - (b) made in confidence, for the diagnosis or treatment of the client or patient by the mental health therapist, and by a means not intended to be disclosed to third persons other than those individuals:
    - (i) present to further the interest of the client or patient in the consultation, examination, or interview;
    - (ii) reasonably necessary for the transmission of the communications; or
    - (iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.
- (3) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by which one individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.
- (4) "Individual" means a natural person.
- (5) "Mental health therapist" means an individual licensed under this title as:
  - (a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;
  - (b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;
  - (c) a psychologist qualified to engage in the practice of mental health therapy;
  - (d) a clinical social worker;
  - (e) a certified social worker;
  - (f) a marriage and family therapist; or
  - (g) a professional counselor.
- (6) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).
- (7) "Practice of mental health therapy" means treatment or prevention of mental illness, including:
  - (a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);
  - (b) establishing a diagnosis in accordance with established written

- standards generally recognized in the professions of mental health therapy listed under Subsection (5);
- (c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and
  - (d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).
- (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.
  - (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

**58-60-103. Licensure required.**

- (1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; Chapter 31b, Nurse Practice Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order to:
  - (a) engage in or represent he will engage in the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or professional counseling; or
  - (b) practice as or represent himself as a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, or registered psychiatric mental health nurse specialist.
- (2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:
  - (a) engage in or represent that he is engaged in practice as a social services worker; or
  - (b) represent himself as or use the title of social service worker.
- (3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:
  - (a) engage in or represent that he is engaged in practice as a licensed substance abuse counselor; or
  - (b) represent himself as or use the title of licensed substance abuse counselor.
- (4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be certified under this chapter, or otherwise exempted from licensure under this chapter in order to engage in an internship or residency program of supervised clinical training necessary to meet the requirements for licensure as:
  - (a) a marriage and family therapist under Part 3; or
  - (b) a professional counselor under Part 4.

**58-60-104. Term of license - Expiration - Renewal.**

- (1)
  - (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.
  - (b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal the licensee shall show satisfactory evidence of renewal requirements as required under this chapter.
- (3) Each license expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

**58-60-105. Continuing education.**

- (1) By rule made under Section 58-1-203, the division may establish a continuing

education requirement as a condition for renewal of any license classification under this chapter upon finding continuing education for that profession is necessary to reasonably protect the public health, safety, or welfare.

- (2) If a renewal cycle is extended or shortened under Section 58-60-104, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

**58-60-106. Status of licenses held on the effective date of this chapter.**

An individual holding a valid Utah license as a clinical social worker, certified social worker, social service worker, or marriage and family therapist under any licensing or practice acts in this title in effect immediately prior to July 1, 1994, is on or after July 1, 1994, considered to hold a current license under this chapter in the comparable classification as a clinical social worker, certified social worker, social service worker, or marriage and family therapist.

**58-60-107. Exemptions from licensure.**

- (1) Except as modified in Section 58-60-103, the exemptions from licensure in Section 58-1-307 apply to this chapter.
- (2)
  - (a) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:
  - (b) the following when practicing within the scope of the license held:
    - (i) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;
    - (ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act; and
    - (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;
- (3) a recognized member of the clergy while functioning in his ministerial capacity as long as he does not represent himself as or use the title of a license classification in Subsection 58-60-102(5);
- (4) an individual who is offering expert testimony in any proceeding before a court, administrative hearing, deposition upon the order of any court or other body having power to order the deposition, or proceedings before any master, referee, or alternative dispute resolution provider;
- (5) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:
  - (a)
    - (i) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;
    - (ii) consults with a client to determine current motivation and behavior patterns;
    - (iii) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience.
    - (iv) tests clients to determine degrees of suggestibility;
    - (v) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and
    - (vi) trains clients in self-hypnosis conditioning;
  - (b) may not:
    - (i) engage in the practice of mental health therapy;
    - (ii) represent himself using the title of a license classification in

Subsection 58-60-102(5); or

- (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;
- (6) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;
- (7) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or professional counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;
- (8) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;
- (9) an individual providing general education in the subjects of alcohol or drug use or abuse, including prevention; and
- (10) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel.

**58-60-108. Grounds for action regarding license - Disciplinary proceedings.**

The division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.

**58-60-109. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

- (1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:
  - (a) mental health therapy;
  - (b) clinical social work;
  - (c) certified social work;
  - (d) marriage and family therapy;
  - (e) professional counseling;
  - (f) practice as a social service worker; or
  - (g) licensed substance abuse counselor;
- (2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division his completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)(f); or
- (3) representing oneself as or using the title of any of the following unless currently licensed in a license classification under this title:
  - (a) psychiatrist;
  - (b) psychotherapist;
  - (c) registered psychiatric mental health nurse specialist;
  - (d) mental health therapist;
  - (e) clinical social worker;
  - (f) certified social worker;
  - (g) marriage and family therapist;

- (h) professional counselor;
- (i) clinical hypnotist;
- (j) social service worker;
- (k) licensed substance abuse counselor;
- (l) certified professional counselor intern; or
- (m) certified marriage and family therapist intern.

**58-60-110. Unprofessional conduct.**

- (1) As used in this chapter, "unprofessional conduct" includes:
  - (a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;
  - (b) failure to confine practice conduct to those acts or practices:
    - (i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and
    - (ii) which are within applicable scope of practice laws of this chapter; and
  - (c) disclosing or refusing to disclose any confidential communication under Section 58-60-114 or 58-60-509.
- (2) "Unprofessional conduct" under this chapter may be further defined by division rule.

**58-60-111. Penalty for unlawful conduct.**

An individual who commits any act of unlawful conduct as defined in:

- (1) Subsection 58-60-109(1) or (2) is guilty of a third degree felony; or
- (2) Subsection 58-60-109(3) is guilty of a class A misdemeanor.

**58-60-112. Reporting of unprofessional or unlawful conduct - Immunity from liability.**

- (1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within ten days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:
  - (a) a licensed health care facility or organization in which an individual licensed under this chapter engaged in practice;
  - (b) an individual licensed under this chapter; and
  - (c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional conduct or unlawful conduct.
- (2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

**58-60-113. Evidentiary privilege.**

Evidentiary privilege for mental health therapists regarding admissibility of any confidential communication in administrative, civil, or criminal proceedings is in accordance with Rule 506 of the Utah Rules of Evidence.

**58-60-114. Confidentiality - Exemptions.**

- (1) A mental health therapist under this chapter may not disclose any confidential communication with a client or patient without the express consent of:
  - (a) the client or patient;
  - (b) the parent or legal guardian of a minor client or patient; or
  - (c) the authorized agent of a client or patient.
- (2) A mental health therapist under this chapter is not subject to Subsection (1) if:
  - (a) he is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:
    - (i) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;
    - (ii) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of Disabled Adult;
    - (iii) reporting under Title 78, Chapter 14a, Limitation of Therapist's Duty to Warn;
    - (iv) reporting of a communicable disease as required under Section 26-6-6;
  - (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
  - (c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure

**58-60-115. License by endorsement.**

The division shall issue a license by endorsement under this chapter to a person who:

- (1) submits an application on a form provided by the division;
- (2) pays a fee determined by the department under Section 63-38-3.2;
- (3) provides documentation of current licensure in good standing in any state, district, or territory of the United States to practice in the profession in which licensure is being sought;
- (4) provides documentation of having been actively engaged in the legal practice of his profession, including mental health therapy, for not less than 4,000 hours during the three years immediately preceding the date of application for licensure in Utah;
- (5) has passed the profession specific jurisprudence examination if required of a new applicant; and
- (6) is of good moral character and professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction.

**58-60-116. Repealed.**

**Part 2 - Social Worker Licensing Act**

**58-60-201. Title.**

This part is known as the "Social Worker Licensing Act."

**58-60-202. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

- (1) "Board" means the Social Worker Licensing Board created in Section 58-60-203.
- (2) "Practice of clinical social work" includes:
  - (a) the practice of mental health therapy by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;
  - (b) the application of generally recognized psychotherapeutic and social work principles and practice requiring the education, training, and clinical experience of a clinical social worker; and
  - (c) supervising of the practice of a certified social worker or social service worker as the supervision is required under this chapter and as further defined by division rule.
- (3) "Practice of certified social work" includes:
  - (a) the supervised practice of mental health therapy by a clinical social worker by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunctions, the symptoms of any of these, or maladaptive behavior;
  - (b) the supervised or independent and unsupervised application of generally recognized professional social work principles and practices requiring the education, training, and experience of a certified social worker; and
  - (c) supervision of the practice of a social service worker as the supervision is required under this chapter and as further defined by division rule.
- (4) "Practice as a social service worker":
  - (a) includes performance under supervision of a mental health therapist of professional services consistent with the education and training of a social service worker and the standards and ethics of the profession, including patient management activities;
  - (b) includes the supervised or unsupervised application of professional social work principles and practices and the practice of case management, which practices require only the education, training, and experience of a social service worker and are conducted in accordance with generally accepted standards and ethics of the profession; and
  - (c) does not include engaging in the practice of mental health therapy with an individual, family, group, or any other persons.
- (5) "Supervision of a social service worker" means supervision conducted by an individual licensed as a mental health therapist under this title in accordance with division rules made in collaboration with the board.

**58-60-203. Board.**

- (1) There is created the Social Worker Licensing Board consisting of two certified social workers, two clinical social workers, two social service workers, and one member from the general public.
- (2) The board shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are under Sections 58-1-202 and 58-1-203. In addition, the board shall:
  - (a) designate one of its members on a permanent or rotating basis to assist the division in review of complaints concerning unlawful or unprofessional practice by a licensee in any profession regulated by the

- board and to advise the division regarding the conduct of investigations of the complaints; and
- (b) disqualify any member from acting as presiding officer in any administrative procedure in which that member has previously reviewed the complaint or advised the division.

**58-60-204. License classifications.**

The division shall issue licenses to individuals qualified under this part in the classifications:

- (1) clinical social worker;
- (2) certified social worker; and
- (3) social service worker.

**58-60-205. Qualifications for licensure as a clinical or certified social worker and social service worker.**

- (1) An applicant for licensure as a clinical social worker shall:
  - (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and earned degree as follows:
    - (i) an earned master's degree in social work resulting from completion of an education program accredited by the Council on Social Work Education; or
    - (ii) an earned doctoral degree in social work that results from successful completion of a clinical concentration and practicum approved by the division and defined by rule under Section 58-1-203;
  - (e) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a clinical social worker supervisor approved by the division in collaboration with the board;
  - (f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (d), which training may be included as part of the 4,000 hours of training in Subsection (e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct personal face to face supervision of a clinical social worker approved by the division in collaboration with the board;
  - (g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and
  - (h) pass the examination requirement established by rule under Section 58-1-203.
- (2) An applicant for licensure as a certified social worker shall:
  - (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the Social Worker Licensing Board verifying satisfactory completion of an education and an earned degree as follows:
    - (i) a social work education program accredited by the Council on



- (ii) an education program that contains approved clinical social work concentration and practicum in content as defined by rule under Section 58-1-203 and an earned doctorate resulting from completion of that program; and
  - (e) pass the examination requirement established by rule under Section 58-1-203.
- (3) An applicant for licensure as a social service worker shall:
- (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the Social Worker Licensing Board verifying satisfactory completion of an earned degree resulting from education as follows:
    - (i) a bachelor's degree in a social work program accredited by the Council on Social Work Education;
    - (ii) a master's degree in a field approved by the division in collaboration with the social worker board; or
    - (iii) a bachelor's degree in sociology, psychology, family sciences, or other field approved by the division in collaboration with the Social Worker Licensing Board and also documentation of 2,000 hours of supervised social work activity approved by the division in collaboration with the board, which is performed after completing bachelor's degree requirements under this subsection;
    - (iv) a bachelor's degree in any field, if the applicant has completed:
      - (A) the equivalent of three credit hours of course work or other approved training in full-life human growth behavior, abnormal psychology, social work values and ethics, social welfare, or social welfare policy;
      - (B) an approved social work practice methods course; and
      - (C) one year of qualifying experience under the supervision of a licensed certified or clinical social worker, which experience is approved by the division in collaboration with the Social Worker Licensing Board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this subsection; or
    - (v) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and
  - (e) pass the examination requirement established by rule under Section 58-1-203.

58-60-206. Qualifications for admission to examination.

All applicants for admission to any examination qualifying an individual for licensure under this part shall:

- (1) submit an application on a form provided by the division;
- (2) pay the fee established for the examination; and
- (3) certify under penalty of perjury as evidenced by notarized signature on the application for admission to the examination that the applicant has completed the education requirements and been awarded the earned degree required for licensure.

58-60-207. Scope of practice - Limitations.

- (1) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and

independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

- (2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:
  - (a) under supervision of a clinical social worker and as an employee of another person when engaged in the practice of mental health therapy;
  - (b) without supervision and in private and independent practice or an employee of another person, if not engaged in the practice of mental health therapy;
  - (c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other licensed clinical or certified social workers, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and
  - (d) supervising social service workers as provided by division rule.

### **Part 3 - Marriage and Family Therapist Licensing Act**

#### **58-60-301. Title.**

This part is known as the "Marriage and Family Therapist Licensing Act."

#### **58-60-302. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

- (1) "Assess" means the use of diagnostic procedures, tests, and interview techniques generally accepted as standard in mental health therapy to diagnose any condition related to mental, emotional, behavioral, and social disorders or dysfunctions.
- (2) "Board" means the Marriage and Family Therapist Licensing Board created in Section 58-60-303.
- (3) "Practice of marriage and family therapy" includes:
  - (a) the process of providing professional mental health therapy including psychotherapy to individuals, couples, families, or groups;
  - (b) utilizing established principles that recognize the interrelated nature of individual problems and dysfunctions in family members to assess, diagnose, and treat mental, emotional, and behavioral disorders;
  - (c) individual, premarital, relationship, marital, divorce, and family therapy;
  - (d) specialized modes of treatment for the purpose of diagnosing and treating mental, emotional, and behavioral disorders, modifying interpersonal and intrapersonal dysfunction, and promoting mental health; and
  - (e) assessment utilized to develop, recommend, and implement appropriate plans of treatment, dispositions, and placement related to the functioning of the individual, couple, family, or group.

#### **58-60-303. Board.**

- (1) There is created the Marriage and Family Therapist Licensing Board consisting of four marriage and family therapists and one member from the general public.
- (2) The board shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.
- (3) The board shall:

- (a) comply with the provisions of Sections 58-1-202 and 58-1-203;
- (b) designate one of its members on a permanent or rotating basis to assist the division in review of complaints concerning unlawful or unprofessional practice by a licensee in the respective profession regulated by the board and to advise the division with respect to the conduct of investigations of the complaints; and
- (c) disqualify any member from acting as presiding officer in any administrative procedure in which that member has previously reviewed the complaint or advised the division.

**58-60-304. License classification.**

The division will issue licenses to individuals qualified under this part in the classification of:

- (1) marriage and family therapist; or
- (2) certified marriage and family therapist intern.

**58-60-305. Qualifications for licensure.**

- (1) All applicants for licensure as marriage and family therapists shall:
  - (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:
    - (i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or
    - (ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;
  - (e) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203, in not less than two years, under the supervision of a marriage and family therapist supervisor who meets the requirements of Section 58-60-307, and obtained after completion of the education requirement in Subsection (1)(d);
  - (f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct personal, face to face supervision by a marriage and family therapist supervisor qualified under Section 58-60-307; and
  - (g) pass the examination requirement established by division rule under Section 58-1-203.
- (2)
  - (a) All applicants for certification as a marriage and family therapist intern shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).
  - (b) An individual's certification as a marriage and family therapist intern is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

**58-60-305.5. Qualification for licensure before May 1, 2000.**

- (1) A person who was licensed under this chapter as of May 1, 2000, may apply for renewal of licensure without being required to fulfill the educational requirements described in Subsection 58-60-305(4).
- (2) A person who seeks licensure under this chapter before July 1, 2002, need comply only with the licensure requirements in effect before May 1, 2000.

**58-60-306. Qualifications for admission to examination.**

All applicants for admission to any examination qualifying an individual for licensure under this part shall:

- (1) submit an application on a form provided by the division;
- (2) pay the fee established for the examination; and
- (3) certify under penalty of perjury as evidenced by notarized signature on the application for admission to the examination that the applicant has completed the education requirement and been awarded the earned degree required for licensure.

**58-60-307. Marriage and family therapist supervisors - Qualifications.**

- (1) Each person acting as a marriage and family therapist supervisor shall:
  - (a) have at least two years clinical experience as a marriage and family therapist since the date of first licensure as a marriage and family therapist; and
  - (b) either:
    - (i) be approved as a supervisor by a national marriage and family therapist professional organization; or
    - (ii) meet the criteria established by rule.
- (2) Persons who act as a supervisor without meeting the requirements of this section are subject to discipline for unprofessional conduct.

**58-60-308. Scope of practice - Limitations.**

- (1) A licensed marriage and family therapist may engage in all acts and practices defined in the practice of marriage and family therapy without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.
- (2)
  - (a) To the extent an individual has completed the educational requirements of Subsections 58-60-305(1)(a) through (1)(d) a certified marriage and family therapist intern may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:
    - (i) within the scope of employment as a certified marriage and family therapist intern with a public agency or a private clinic as defined by division rule; and
    - (ii) under the supervision of a licensed marriage and family therapist who is qualified as a supervisor under Section 58-60-307.
  - (b) A certified marriage and family therapy intern may not engage in the independent practice of marriage and family therapy.

**Part 4 - Professional Counselor Licensing Act**

**58-60-401. Title.**

This part is known as the "Professional Counselor Licensing Act."

**58-60-402. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

- (1) "Board" means the Professional Counselor Licensing Board created in Section 58-60-403.
- (2) "Practice of professional counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

**58-60-403. Board.**

- (1) There is created the Professional Counselor Licensing Board consisting of four professional counselors and one member from the general public.
- (2) The board shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall:
  - (a) designate one of its members on a permanent or rotating basis to assist the division in review of complaints concerning unlawful or unprofessional practice by a licensee in the respective profession regulated by the board and to advise the division with respect to the conduct of investigations of the complaints; and
  - (b) disqualify any member from acting as presiding officer in any administrative procedure in which that member has previously reviewed the complaint or advised the division.

**58-60-404. License classification.**

The division shall issue licenses to individuals qualified under the provisions of this part in the classification of:

- (1) a professional counselor; or
- (2) a certified professional counselor intern.

**58-60-405. Qualifications for licensure.**

- (1) All applicants for licensure as a professional counselor shall:
  - (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:
    - (i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently engage in mental health therapy; and
    - (ii) an earned doctoral or master's degree resulting from that education program;
  - (e) have completed a minimum of 4,000 hours of professional counselor training as defined by division rule under Section 58-1-203, in not less than two years, under the supervision of a professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board and obtained after completion of the education requirement in

- Subsection (1)(d);
- (f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct personal face to face supervision of a mental health therapist approved by the division in collaboration with the board; and
  - (g) pass the examination requirement established by division rule under Section 58-1-203.
- (2) (a) All applicants for certification as a professional counselor intern shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).
- (b) An individual's certification as a professional counselor intern is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

**58-60-406. Qualifications for admission to examination.**

All applicants for admission to any examination qualifying an individual for licensure under this part shall:

- (1) submit an application on a form provided by the division;
- (2) pay the fee established for the examination; and
- (3) certify under penalty of perjury as evidenced by notarized signature on the application for admission to the examination that the applicant has completed the education requirement and been awarded the earned degree required for licensure.

**58-60-407. Scope of practice - Limitations.**

- (1) A licensed professional counselor may engage in all acts and practices defined as the practice of professional counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.
- (2) (a) To the extent an individual has completed the educational requirements of Subsections 58-60-308(1)(a) through (1)(d), a certified professional counseling intern may engage in all acts and practices defined as the practice of professional counseling if the practice is:
  - (i) within the scope of employment as a certified professional counselor with a public agency or private clinic as defined by division rule; and
  - (ii) under supervision of a qualified licensed mental health therapist as defined in Subsection 58-60-405(5).
- (b) A certified professional counselor intern may not engage in the independent practice of professional counseling.

**Part 5 - Substance Abuse Counselor Act**

**58-60-501. Title.**

This part is known as the "Substance Abuse Counselor Act."

#### **58-60-502. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

- (1) "Approved agency" means an agency licensed by the Department of Human Services or a general acute hospital or specialty hospital as defined in Section 26-21-2 and licensed by the state Department of Health that:
  - (a) provides substance abuse services; and
  - (b) provides qualified mental health therapists in sufficient number to evaluate the conditions of the clients being treated by licensed substance abuse counselors employed by the approved agency to ensure that appropriate substance abuse services are being given.
- (2) "Board" means the Substance Abuse Counselor Licensing Board created in Section 58-60-503.
- (3) "Direct supervision" means:
  - (a) a supervisor provides a minimum of one hour of supervision to the licensed substance abuse counselor for every 40 hours of client care provided by the counselor, which supervision may include group supervision;
  - (b) the supervision is conducted in a face-to-face manner, unless otherwise approved on a case-by-case basis by the division in collaboration with the board; and
  - (c) a supervisor is available for consultation with the counselor at all times.
- (4) "Group supervision" means more than one licensed substance abuse counselor meets with the supervisor at the same time.
- (5) "Individual supervision" means only one licensed substance abuse counselor meets with the supervisor at a given time.
- (6) (a) "Practice as a licensed substance abuse counselor" means providing services as an employee of an approved agency under the supervision of a licensed mental health therapist, to individuals or groups of persons for conditions of substance abuse, consistent with the education and training of a licensed substance abuse counselor required under this part, and the standards and ethics of the profession as approved by the division in collaboration with the board, and includes:
  - (i) administering the screening process by which a client is determined appropriate and eligible for admission to a particular program;
  - (ii) conducting the administrative intake procedures for admission to a program;
  - (iii) conducting orientation of a client, including:
    - (A) describing the general nature and goals of the program;
    - (B) explaining rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;
    - (C) explaining hours during which services are available in a nonresidential program;
    - (D) treatment costs to be borne by the client, if any; and
    - (E) describing the client's rights as a program participant;
  - (iv) conducting those assessment procedures by which a substance abuse counselor identifies an individual's strengths weaknesses, problems, and needs for the development of the treatment program;
  - (v) participating in the process of treatment planning by which the substance abuse counselor, the mental health therapist, and the client:
    - (A) identify and rank problems needing resolution;

- (B) establish agreed upon immediate and long term goals; and
  - (C) decide on a treatment process and the resources to be utilized;
- (vi) providing substance abuse counseling services to alcohol and drug abuse clients and significant other persons in the client's life as part of a comprehensive treatment plan, including the following, but not including mental health therapy:
  - (A) leading specific task-oriented groups, didactic groups, and group discussions;
  - (B) cofacilitating group therapy with a licensed mental health therapist; and
  - (C) engaging in one-on-one interventions and interactions coordinated and directly supervised by a mental health therapist;
- (vii) performing case management activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;
- (viii) providing substance abuse crisis intervention services;
- (ix) providing client education to individuals and groups concerning alcohol and other drug abuse, including identification and description of available treatment services and resources;
- (x) identifying the needs of the client that cannot be met by the substance abuse counselor or agency and referring the client to appropriate services and community resources;
- (xi) developing and providing effective reporting and recordkeeping procedures and services, which include charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data; and
- (xii) consulting with other professionals in regard to client treatment and services to assure comprehensive quality care for the client.
- (b) "Practice as a licensed substance abuse counselor" does not include:
  - (i) the diagnosing of mental illness, including substance abuse, as defined in Section 58-60-102;
  - (ii) engaging in the practice of mental health therapy as defined in Section 58-60-102; or
  - (iii) the performance of substance abuse diagnosis, any other mental illness diagnosis, or psychological testing.
- (7) "Program" means a residential or nonresidential program that provides substance abuse services.

**58-60-503. Board.**

- (1) There is created the Licensed Substance Abuse Counselor Licensing Board consisting of:
  - (a) three licensed substance abuse counselors;
  - (b) three mental health therapists qualified by education and experience to treat substance abuse and who are currently practicing in the substance abuse field; and
  - (c) one public member.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
  - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
  - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised



in the investigation of a complaint may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

**58-60-504. License classification.**

The division shall issue licenses to individuals qualified under this part in the classification of licensed substance abuse counselor.

**58-60-505. Qualifications for licensure prior to July 1, 1998.**

- (1) An applicant for licensure as a licensed substance abuse counselor prior to July 1, 1998, shall meet the following requirements:
  - (a) submit an application in a form prescribed by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d)
    - (i) produce certified transcripts from an accredited institution of higher education meeting standards established by division rule made in collaboration with the board verifying satisfactory completion of an earned degree resulting from education as follows:
      - (A) a baccalaureate or graduate degree from a substance abuse counselor program meeting standards established by division rule made in collaboration with the board; or
      - (B) a baccalaureate or graduate degree in a behavior science field meeting standards established by division rule in collaboration with the board and also documentation of 4,000 hours of supervised qualifying experience meeting standards established by division rule made in collaboration with the board, which experience is performed after completing the degree requirement under this subsection and within a two-year period; or
    - (ii) document successful completion of not less than 6,000 hours of experience providing substance abuse counseling services as defined in Section 58-60-502; and
  - (e) pass the examination requirement established by rule under Section 58-1-203.
- (2) An applicant who has complied with all requirements of this section except Subsection (1)(e) may be issued by the division a temporary license allowing the applicant to practice until he has taken and passed the examination under Subsection (1)(e) or until June 30, 1998, whichever occurs first.

**58-60-506. Qualifications for licensure on or after July 1, 1998.**

- (1) An applicant for licensure as a licensed substance abuse counselor on or after July 1, 1998, must meet the following qualifications:
  - (a) submit an application in a form prescribed by the division;
  - (b) pay a fee determined by the department under Section 63-38-3.2;
  - (c) be of good moral character;
  - (d)
    - (i) produce certified transcripts from an accredited institution of higher education meeting standards established by division rule made in collaboration with the board verifying satisfactory completion of an earned degree resulting from education as follows:
      - (A) a baccalaureate or graduate degree from a substance abuse counselor program meeting standards established by division rule made in collaboration with the board; or
      - (B) a baccalaureate or graduate degree in a behavior science

field meeting standards established by rule by the division in collaboration with the board and also documentation of 4,000 hours of supervised qualifying experience meeting standards established by division rule made in collaboration with the board, which experience is performed after completing the degree requirement under this subsection and within a two-year period; or

- (ii) document completion of the following:
  - (A) high school diploma or equivalent;
  - (B) completion of 300 hours of addiction counseling specific training as defined by division rule made in collaboration with the board; and
  - (C) completion of 6,000 hours of supervised experience in not less than three years, which include a 300-hour supervised practicum meeting standards established by division rule made in collaboration with the board; and
- (e) pass the examination requirement established by rule under Section 58-1-203.

**58-60-507. Qualifications for admission to examination.**

All applicants for admission to any examinations qualifying an individual for licensure under this part shall:

- (1) submit an application on a form provided by the division;
- (2) pay the fee established for the examination; and
- (3) certify under penalty of perjury as evidenced by notarized signature on the application for admission to the examination that the applicant has completed the education or experience requirements, or both, as required under Section 58-60-505 or 58-60-506.

**58-60-508. Core functions of the mental health therapist supervisor.**

Each supervisor of licensed substance abuse counselors shall:

- (1) be a licensed mental health therapist qualified by education and experience to treat substance abuse;
- (2) be currently working in the substance abuse treatment field;
- (3) review substance abuse counselor assessment procedures;
- (4) provide substance abuse diagnosis and other mental health diagnoses in accordance with Subsections 58-1-501(2)(b) and 58-60-102(7);
- (5) participate in the development of a treatment plan;
- (6) approve the treatment plan; and
- (7) provide direct supervision, for the following number of counselors, unless otherwise approved by the division in collaboration with the board:
  - (a) not more than ten substance abuse counselors if providing individual supervision; and
  - (b) not more than five substance abuse counselors at one time, and not more than a total of ten, if providing group supervision.

**58-60-509. Confidentiality - Exemptions.**

- (1) A licensed substance abuse counselor under this part may not disclose any confidential communication with a client or patient without the express consent of:
  - (a) the client or patient;
  - (b) the parent or legal guardian of a minor client or patient; or
  - (c) the authorized agent of a client or patient.
- (2) A licensed substance abuse counselor under this part is not subject to Subsection (1) if:

- (a) he is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:
  - (i) reporting under Title 62A, Chapter 4a, Part 5, Child Abuse or Neglect Reporting Requirements;
  - (ii) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of Disabled Adult;
  - (iii) reporting under Title 78, Chapter 14a, Limitation of Therapist's Duty to Warn; and
  - (iv) reporting of a communicable disease as required under Section 26-6-6;
- (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
- (c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

**58-60-510. Evidentiary privilege.**

Evidentiary privilege for licensed substance abuse counselors regarding admissibility of any confidential communication in administrative, civil, or criminal proceedings is in accordance with Rule 506, Utah Rules of Evidence.

# **MENTAL HEALTH PROFESSIONAL PRACTICE ACT**

**Title 58, Chapter 60  
Utah Code Annotated 1953  
As Amended by  
Session Laws of Utah 2001  
Issued April 30, 2001**

